



## LEGAL PROTECTIONS FOR PUBLIC HEALTH OFFICIALS

### Arkansas Fact Sheet

## Obstructing Governmental Operations

Nationwide, state and local public health officials working to protect the public from COVID-19 are on the receiving end of threatening and harassing conduct for simply fulfilling their duty to protect the public health. In response, the Network conducted research to examine whether the states and Washington, D.C., have criminal statutes punishing individuals who impede public health officials' duties with such behavior. Our research is presented in this [chart](#). Many states have adopted statutes to protect public officials generally; included here are those with broad enough language to include public health officials. However, we have also included the three states with laws that if broadened, would encompass public health officials, namely, Illinois, North Carolina, and Vermont. While 35 states and Washington, D.C., have such a statute, the remaining 15 states either do not have a statute protecting government officials in these circumstances or do not have one protecting public health officials. Of the 35 states and Washington, D.C., all but two, Louisiana and Oklahoma, include protections for state and local officials. Below is more information on Arkansas's relevant law.

### A.C.A. § 5-54-102 Obstructing governmental operations


(a) A person commits the offense of obstructing governmental operations if the person:

- (1) Knowingly obstructs, impairs, or hinders the performance of any governmental function;
- (2) Knowingly refuses to provide information requested by an employee of a governmental agency relating to the investigation of a case brought under Title IV-D of the Social Security Act, 42 U.S.C. § 651 et seq., and is the physical custodian of the child in the case;
- (3) Fails to submit to court-ordered scientific testing by a noninvasive procedure to determine the paternity of a child in a case brought under Title IV-D of the Social Security Act, 42 U.S.C. § 651 et seq.; or
- (4) Falsely identifies himself or herself to a law enforcement officer or a code enforcement officer.

- (b)
- (1) Obstructing governmental operations by using or threatening to use physical force is a Class A misdemeanor.
  - (2) A second or subsequent offense of obstructing governmental operations under subdivision (a)(4) of this section is a Class A misdemeanor.
  - (3) Otherwise, obstructing governmental operations is a Class C misdemeanor.

(c) This section does not apply to:

- (1) Unlawful flight by a person charged with an offense;
- (2) Refusal to submit to arrest;



(3) Any means of avoiding compliance with the law not involving affirmative interference with a governmental function unless specifically set forth in this section; or

(4) Obstruction, impairment, or hindrance of what a person reasonably believes is a public servant's unlawful action.

(d) (1) As used in this section, “code enforcement officer” means an individual charged with the duty of enforcing a municipal code, municipal ordinance, or municipal regulation as defined by a municipal code, municipal ordinance, or municipal regulation.

(2) “Code enforcement officer” includes a municipal animal control officer.

## Relevant Definitions

### A.C.A. § 5-1-102 Definitions

“**Public Servant**” means an officer or employee of the state or of any political subdivision of the state; a person exercising a function of any officer or employee of the state or any political subdivision of the state; or a person acting as an adviser, consultant, or otherwise in performing any governmental function.

## Penalties

### A.C.A. § 5-4-401 Sentence

Classified as a Class A misdemeanor and carries with it up to 1 year imprisonment

### A.C.A. § 5-4-201 Fines

\$2,500 maximum fine

## Summary

A person obstructs governmental operations if he/she knowingly obstructs, impairs, or hinders the performance of any governmental function by using or threatening to use force. If convicted, a person faces up to 1 year imprisonment and a \$2,500 maximum fine.

## Template for Notifying Violators

**Below is a sample template for notifying individuals regarding their conduct relative to the code.**

**A.C.A. § 5-54-102**, prohibits the obstruction of governmental operations. [insert here a description of the conduct with a date—for example: On August 28, 2020, you sent an email to Dr. X, the Secretary of Health for Arkansas, threatening to come to her home and show your opposition to the State’s mask requirement.] *This may constitute a violation of §5-54-102. If convicted, you face a fine of up to \$2,500 and imprisonment up to 1 year.*

- If the conduct is extreme, add: *We have notified the [insert proper law enforcement agency] of this conduct.*
- If the conduct does not rise to the level of reporting, add: *Should you continue with this conduct, we may report the matter to [insert law enforcement agency].*